

declares the House in recess until approximately 5:45 p.m. today.

Accordingly (at 3 o'clock and 40 minutes p.m.), the House stood in recess until approximately 5:45 p.m.

□ 1749

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. JONES of Ohio) at 5 o'clock and 49 minutes p.m.

#### WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. MCGOVERN. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 873 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

#### H. RES. 873

*Resolved*, That the requirement of clause 6(a) of rule XIII for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported on the legislative day of December 17, 2007, providing for consideration of any of the following measures:

(1) The Senate amendment to the bill (H.R. 2764) making appropriations for the Department of State, foreign operations, and related programs for the fiscal year ending September 30, 2008, and for other purposes.

(2) The Senate amendments to the bill (H.R. 6) to reduce our Nation's dependency on foreign oil by investing in clean, renewable, and alternative energy resources, promoting new emerging energy technologies, developing greater efficiency, and creating a Strategic Energy Efficiency and Renewables Reserve to invest in alternative energy, and for other purposes.

The SPEAKER pro tempore. The gentleman from Massachusetts is recognized for 1 hour.

Mr. MCGOVERN. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART). All time yielded during consideration of the rule is for debate only.

#### GENERAL LEAVE

Mr. MCGOVERN. Madam Speaker, I ask unanimous consent that all Members be given 5 legislative days in which to revise and extend their remarks on House Resolution 873.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. MCGOVERN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H. Res. 873 waives clause 6(a) of rule XIII, which requires a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee. This waiver would apply to any rule reported on December 17 that provides for consideration of the omnibus appropriations bill or

the Senate-amended energy bill. Madam Speaker, the Rules Committee has reported a separate rule for the energy bill, but the House is not expected to take up the Senate-amended energy bill tonight.

With passage of this rule, the House will move one step closer to passing the omnibus appropriations bill that will fund the government outside of the Department of Defense, which we have already funded. It's an important bill, and although it is not everything I wanted, I believe it deserves to be approved in its current form.

Madam Speaker, Democrats took over the majority in the House and the Senate with a promise of a new direction for America. The House moved an aggressive and positive agenda forward, including the timely consideration and passage of the fiscal year 2008 appropriations bills. Unfortunately, the President and the Republican leadership of the House and the Senate are still stuck in the past. Instead of working with Democrats in moving towards a new direction, the Republican leaders in the House and Senate did everything they possibly could to delay and obstruct the process until we had no option but to bring an omnibus appropriations bill to the floor.

In fact, the Senate minority leader, Senator MCCONNELL, actively blocked consideration of these appropriations bills. Why would the Republican leadership block these bills from even being considered in the Senate? The answer, Madam Speaker, is that they were playing politics. Instead of allowing important funding for our roads and bridges, funding for the sick and the hungry, funding to protect our food system and funding for homeland security, the Republican leadership decided to block these funds to try to score political points.

So when my friends on the other side of the aisle complain that we are not considering these bills individually, remember that they were the ones that prevented us from doing just that. That's unfortunate but it's reality. The reality is that because of Senate rules, it takes 60 votes to order pizza, let alone to consider and vote on important pieces of legislation.

All told, the Democratic majority wanted to pass appropriations bills that were fully paid for and that increased spending by \$22 billion over the President's request. The President and his allies here in Congress said, No, no, that's too much. That's too much for education, too much for health care, too much for medical research, too much for veterans. The irony, of course, is that the President continues to ask for hundreds of billions of dollars for the war in Iraq, none of it paid for. Billions to patch the alternative minimum tax, none of it paid for.

Some of my Republican friends, as I read in the press, are now proclaiming a great "victory" because the omnibus bill meets the President's top-line number. Let's take a look at that.

Because of the Republicans, there will be fewer medical research grants at NIH than Democrats would have liked. "Congratulations," I guess.

Because of Republicans, there will be fewer cops on the beat than Democrats would have liked. "Job well done," I suppose.

Because of the Republicans, there is less funding for important education programs that Democrats would have liked. "Mission accomplished," my Republican friends.

The fact is that this Republican so-called "victory" is hollow at best. And I've been wracking my brain all day, but I just can't remember the Republican campaign commercial from last fall that said, "Vote for me and I'll follow the President off the cliff and spend billions more in Iraq while I cut domestic priorities." Maybe that commercial did exist and it just didn't run in Massachusetts.

Despite all of that and despite the Republican obstruction, Chairman OBEY has put together a bill that makes important new investments in our national priorities. More money than the President wanted for medical research and rural health. More money than the President wanted for K-12 education. More money than the President wanted for renewable energy and energy efficiency. More money than the President wanted for homeland security, for local law enforcement, for our crumbling infrastructure. And perhaps most importantly, more money than the President wanted and requested for our veterans. All of that changed, all of that progress because of this new Democratic majority.

Madam Speaker, unlike last year, we are getting our work done. We are completing our appropriations bills, not kicking the can down the road with another continuing resolution, which is what the Republicans did last year when they controlled both Houses of Congress and the White House, I should add. And the same-day rule before us takes us one step closer to making that happen.

Madam Speaker, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I would like to thank the gentleman from Massachusetts for the time, and I yield myself such time as I may consume.

Madam Speaker, "I rise in strong opposition to this martial law rule and in opposition to the outrageous process that continues to plague this House. We have before us a martial law rule that allows the leadership to once again ignore the rules of the House and the procedures and the traditions of this House. Martial law is no way to run a democracy no matter what your ideology, no matter what your party affiliation."

Madam Speaker, those are not my words; those are the words of the gentleman from Massachusetts. He spoke those words on the floor on several occasions last year regarding what he eloquently called a "martial law rule."

So, although they are not my words, they are quite relevant to this debate. Since I have already used some of the gentleman's words, I will continue to point out one more comment that the gentleman made on martial law rules. I think this one quote is particularly interesting because it was given on December 7, 2006, just a month before the Democrats took control of the House of Representatives. It speaks about how the Democrats proposed to run the House, and it is in sharp contrast to how they are actually running the House. This is what the gentleman said:

"There is a better way to run this body. The truth is that the American people expect and deserve better. That is why the 110th Congress must be different. I believe we need to rediscover openness and fairness in this House. We must insist on full and fair debates on the issues that come before this body."

Now, I ask, Madam Speaker, where is that openness and fairness my colleague spoke about? Where is the openness on the energy bill rule, where over 90 amendments were closed out, including a Republican substitute? Where was that openness when we considered SCHIP reauthorization under two closed rules, shutting out all amendments? Where is that openness today when we are asked to consider a 3,000-page omnibus appropriations bill with less than 24 hours to review the legislation?

□ 1800

I know where it is, Madam Speaker. They left it on the campaign trail. It was an empty promise, and it became evident that it was a false, hollow promise on the opening day of their new majority, when the Democrats wrote into the rules of the House closed rules for the consideration of the first six bills that they were to take up, in effect discharging the Rules Committee from its duties for the first six bills they were to bring to the floor.

So their remedy for examples of unfairness they had criticized in the Rules Committee was: no Rules Committee. And that trend, started, sadly, that day, continues to this day.

As my colleague has said, yes, and I quote, "There is a better way to run this body. The truth is that the American people expect and deserve better. That is why the 110th Congress must be different. I believe we need to rediscover openness and fairness in this House. We must insist on full and fair debates on the issues that come before this body." How right my colleague was.

With that, Madam Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Madam Speaker, I would just like to respond to the gentleman.

He talks about process. Let's compare where we are this year compared to where we were last year, when the Republicans had the majority in this Congress. What they did is they avoid-

ed doing their work and, instead, they passed a continuing resolution that took us into the following year, and they ran out of town. They left Washington before they had finished their job for the year. That is the process that they had.

What we are doing right now is trying to bring up the omnibus bill today, and we would have liked to have done it differently, but unfortunately there are Republicans in the House and there are Republicans especially in the Senate who chose to be obstructionists rather than to be partners in trying to get something done. And so here we are.

And so I would say that we're not leaving here until we get our job done. And that's very, very different from the way they conducted business.

Madam Speaker, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, at this time I yield as much time as he may consume to the distinguished ranking member of the Rules Committee.

(Mr. DREIER asked and was given permission to revise and extend his remarks.)

Mr. DREIER. Madam Speaker, I rise in strong opposition to this rule. And I want to begin by complimenting my friend from Miami for very cogently pointing to the December 6, 2006, words of our friend from Worcester who has, once again, stood before us and tried to make an argument for completely re-buffing all of the promises that were made in 2006 and the years before that.

Now, my friend has just referred to the fact that we had a continuing resolution a year ago right now when we were considering this. The fact is, in the last Congress, while it wasn't a model by any means, there were more appropriations bills passed through both Houses of Congress than has been the case in this year, the first year of the Democratic majority's control of this place.

Now, when we think back to those promises that were outlined so well when my friend from Miami was carrying forth the arguments propounded by Mr. MCGOVERN, I think about what we've gotten this year compared to last year. In fact, this year, there have been more bills rewritten in the Rules Committee than in any other Congress we've had before. Eleven of the appropriations bills last year were passed, and only one this year, the Defense appropriations bill. And so as I listen to my friend malign the record of the last Congress, we have to remember the fact that 11 of the bills were passed last year.

But let me further add that in this calendar year there have been more bills rewritten by the Rules Committee than ever before in any Congress. Madam Speaker, in this Congress there have been more closed rules preventing any Member, Democratic or Republican, from having the opportunity to offer an amendment than in any Congress in our history.

And one of the other things that I remember, as we consider this bill, Madam Speaker, is the fact that we were promised a 24-hour period to look at measures. In fact, I remember the Speaker, in "A New Direction for America," said that we would do this. And my friend, in his December 6, 2006, statement, talked about a new sense of fairness and openness. He said that twice in his statement, Madam Speaker. And yet it was 12:55 this morning when the Rules Committee received this 3,000-page omnibus appropriations bill. And here we are, at now 5 minutes past 6 in the evening, having gone through the Rules Committee and brought it to the floor. It is, again, 180 degrees from what was promised by this new majority.

Now, Madam Speaker, I will say that my friend and I are the two Members of the minority who are here on the floor, we have consistently stood, as have all of our colleagues, prepared to work in a bipartisan way to deal with these issues.

And I was really somewhat surprised when I heard my friend mention the issue of veterans benefits, making sure that we have the resources needed for our Nation's veterans. Well, Madam Speaker, last summer, we could have gotten a bill to the President's desk with bipartisan support, Democrats and Republicans, again, coming together, which is what we want to do, we want to work together. And that's what the American people regularly say is, yes, you've got different visions, but can't you deal with areas of agreement and, in fact, pass Public Law on that.

Well, Madam Speaker, I will tell you that I believe the Democrats and Republicans in this House, at least from everything I've heard, want to provide much-needed assistance to our Nation's veterans. Democrats and Republicans want to provide assistance to our Nation's veterans. And, Madam Speaker, last summer we had an opportunity to do that. Our colleagues in the Senate, the other body, they appointed the conferees so that we could report, it was a bipartisan agreement, to report out and get the much-needed veterans relief to the President's desk for a signature. We could have done that last summer. And yet, Madam Speaker, unfortunately, there was never, by the Speaker of the House, an appointment of those conferees. So we've gone for half a year at a cost of, it's been as high as 13 or 18 million a day, if I remember the numbers, that it has cost with this constant delay.

And so I was really shocked that my friend from Worcester would raise the issue of veterans benefits when we could have, again, with Democrats and Republicans alike agreeing, we could have gotten that bill to the President's desk and signed last summer; 6 months ago it could have been done.

So I've got to say again, Madam Speaker, that we were promised this great new sense of openness. I was encouraged by that. And I will admit, in

the position that I held in the last Congress as chairman of the Rules Committee, I didn't do it perfectly. I made mistakes. I know my friend from Miami would acknowledge the same thing. We never held ourselves up as a perfect model, but we were constantly criticized. And I know that regularly our friends on the other side of the aisle will say, well, you did this, so that means we should do this. No, Madam Speaker, it wasn't about what we did. It was about what this new majority promised they were going to do.

Twenty-four hours to look at legislation, and yet this 3,000-page omnibus appropriations bill was made available at 12:55 this morning. A new sense of openness and fairness. More closed rules in the first session of the 110th Congress than in any Congress in our Nation's history, and more bills rewritten in the Committee on Rules than we've ever seen happen before.

Madam Speaker, I believe that those of us in the minority have a responsibility to hold this new majority accountable to those promises that were made, not to us, I mean, I'm not complaining about us, it's the American people. It's our constituents, Democrats and Republicans, who have been denied this opportunity.

And so it is sad that we are beginning to wind down the first session of the 110th Congress in the way that we are when, again, we would very much like to work in a bipartisan way. We're going through this measure now, Madam Speaker, that the President has said he would veto in its current form. We know that the Senate is going to end up doing the right thing, ensuring that we have the necessary funds to support our troops as they seek to prosecute this war against radical extremism, and yet we deny it in this measure.

So I, of course, will be voting against this bill as it now is. And I guess it gives some Members cover. They get an opportunity to say that they're voting against the war in Iraq, which some people want to do. I mean, we all want this war to come to an end. As I just said upstairs in the Rules Committee a few minutes ago, the President of the United States stood here last January, nearly a year ago, and he said, I wish this war were over and that we had won. This is not an endless war. We've been getting positive reports from a wide range of sources, even some of the harshest critics, including one particularly prominent Member of this institution, who was a very harsh critic, has acknowledged that the surge has worked and that we are seeing signs of improvement.

Now, I don't know if that's going to bring the war to an end. No one knows. I don't know if it's just a lull. It may be. But I do know this, these are positive signs that need to be recognized. And it would be a horrible mistake for us to pass this omnibus appropriations bill which would deny the needed resources.

Whether you supported our going into Iraq or not, we are where we are, and I think Members of this body need to recognize that. Unfortunately, this omnibus appropriations bill fails to do that.

And I know I've offered this quote on numerous occasions here on the House floor, Madam Speaker, but my constituent, Ed Blecksmith, a very proud former marine, lost his son, his son that was in the battle of Fallujah in November of 2004. And his father said to me, Ed Blecksmith said to me, "If you don't complete our mission in Iraq, my son, J.P., will have died in vain." And that's why I believe that it is critically important, as unpopular as this is, for us to make sure that we complete our mission, which means ensuring that the Iraqi security forces can defend the country and that the government can govern. It took us 13 years, from July 4, 1776 until April of 1789, nearly 13 years for us to put our government into place.

We have challenging and difficult days ahead in both Iraq and Afghanistan, but this measure would be an absolutely horrible, horrible signal to send to our troops and to those who are so courageously, Iraqis, people of Afghanistan, who are fighting on behalf of this cause for freedom.

And so, Madam Speaker, I will say again, it's a process that is not what was promised to the American people, and it is a product which is clearly flawed. So I urge my colleagues to vote against this rule and against the underlying resolution.

Mr. MCGOVERN. Madam Speaker, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, the gentleman from Massachusetts spoke earlier about the fact that my previous comments were focused upon process; and that is correct, they were, because process is a fundamental aspect of a representative democracy.

The legislation that the majority made available early this morning, this bill, Madam Speaker, I was in the district today and I had the opportunity and privilege of having various meetings with constituents, and I have arrived here this evening, and I must admit, Madam Speaker, that I have not had the time to absorb this bill.

□ 1815

Now, process is important because it is our responsibility, Madam Speaker, to represent the American people in a responsible way. Now, the rules of the House call for, and it is true, and the former chairman mentioned it, and I admit, I have made mistakes, as well, the rules of the House call for 3 days for Members to be able to review bills.

Mr. DREIER. Madam Speaker, will the gentleman yield?

Mr. LINCOLN DIAZ-BALART of Florida. I yield to the gentleman from California.

Mr. DREIER. I thank my friend for yielding. I simply would like to con-

gratulate my friend from Miami for having the ability to, as he has just shown, on three occasions lift up all 3,000 pages of this bill which we are expected to vote on which obviously virtually no one has reviewed.

Mr. LINCOLN DIAZ-BALART of Florida. I may have been able to lift it up, but I have not had the opportunity to absorb the legislation, as I think as important a bit of legislation needs to be reviewed.

Now, as I was saying, Madam Speaker, that rule, the requirement of 3 days for Members of this House to review legislation, is often waived by the Rules Committee. That is why the new majority made a promise during the campaign to at least provide 24 hours so that Members could review, study, attempt to absorb legislation at least with 24 hours. So that is why it is most sad, most unfortunate that the new majority is not living up to its own promises. Because I think there is a legitimate, it is a legitimate point of concern when the 3-day rule is waived. And that is why the promise was made.

So I think it is most unfortunate that the promise of the new majority to at least allow the House 24 hours to review legislation, especially as important a piece of legislation as this omnibus appropriations legislation is, that promise is not kept.

Madam Speaker, I will be asking for a "no" vote on the previous question so that we can amend this rule and allow the House to consider a change to the rules of the House to restore accountability and enforceability to the earmark rule while closing loopholes that we have found over the last few months, that under the current rule, so long as the chairman of a committee of jurisdiction includes either a list of earmarks contained in the bill or report or a statement that there are no earmarks, no point of order lies against the bill. This is the same as the rule in the last Congress. However, under the rule as is it functioned under the Republican majority in the 109th Congress, even if the point of order was not available on the bill, it was always available on the rule as a question of consideration. But because the Democratic Rules Committee specifically exempts earmarks from the waiver of all points of order, they deprive Members of the ability to raise the question of earmarks on the rule or on the bill.

The earmark rule is also not applicable when the majority uses a procedure to accept amendments between Houses, such as they plan to do with this omnibus appropriations bill. Because the omnibus appropriations bill is not a conference report, it will fall squarely within one of the loopholes to the earmark rule, and the rules of the House will not require any disclosure of earmarks that are contained in this legislation.

I would like to direct all Members to a letter that House Parliamentarian John Sullivan recently sent to Rules Chairwoman SLAUGHTER which confirms what we have been saying since

January that the Democratic earmark rule contains loopholes. In his letter to Chairwoman SLAUGHTER, the Parliamentarian states that the Democratic earmark rule “does not comprehensively apply to all legislative propositions at all stages of the legislative process.”

HOUSE OF REPRESENTATIVES,  
OFFICE OF THE PARLIAMENTARIAN,  
Washington, DC, October 2, 2007.

Hon. LOUISE MCINTOSH SLAUGHTER,  
Committee on Rules, House of Representatives,  
Washington, DC.

DEAR CHAIRWOMAN SLAUGHTER: Thank you for your letter of October 2, 2007, asking for an elucidation of our advice on how best to word a special rule. As you also know, we have advised the committee that language waiving all points of order “except those arising under clause 9 of rule XXI” should not be adopted as boilerplate for all special rules, notwithstanding that the committee may be resolved not to recommend that the House waive the earmark-disclosure requirements of clause 9.

In rule XXI, clause 9(a) establishes a point of order against undisclosed earmarks in certain measures and clause 9(b) establishes a point of order against a special rule that waives the application of clause 9(a). As illuminated in the rulings of September 25 and 27, 2007, clause 9(a) of rule XXI does not comprehensively apply to all legislative propositions at all stages of the legislative process.

Clause 9(a) addresses the disclosure of earmarks in a bill or joint resolution, in a conference report on a bill or joint resolution, or in a so-called “manager’s amendment” to a bill or joint resolution. Other forms of amendment—whether they be floor amendments during initial House consideration or later amendments between the Houses—are not covered. (One might surmise that those who developed the rule felt that proposals to amend are naturally subject to immediate peer review, though they harbored reservations about the so-called “manager’s amendment,” i.e., one offered at the outset of consideration for amendment by a member of a committee of initial referral under the terms of a special rule.)

The question of order on September 25 involved a special rule providing for a motion to dispose of an amendment between the Houses. As such, clause 9(a) was inapposite. It had no application to the motion in the first instance. Accordingly, Speaker pro tempore Holden held that the special rule had no tendency to waive any application of clause 9(a). The question of order on September 27 involved a special rule providing (in pertinent part) that an amendment be considered as adopted. Speaker pro tempore Blumenauer employed the same rationale to hold that, because clause 9(a) had no application to the amendment in the first instance, the special rule had no tendency to waive any application of clause 9(a).

The same would be true in the more common case of a committee amendment in the nature of a substitute made in order as original text for the purpose of further amendment. Clause 9(a) of rule XXI is inapposite to such an amendment.

In none of these scenarios would a ruling by a presiding officer hold that earmarks are or are not included in a particular measure or proposition. Under clause 9(b) of rule XXI, the threshold question for the Chair—the cognizability of a point of order—turns on whether the earmark-disclosure requirements of clause 9(a) of rule XXI apply to the object of the special rule in the first place. Embedded in the question whether a special

rule waives the application of clause 9(a) is the question whether clause 9(a) has any application.

In these cases to which clause 9 of rule XXI has no application in the first instance, stating a waiver of all points of order except those arising under that rule—when none can so arise—would be, at best, gratuitous. Its negative implication would be that such a point of order might lie. That would be as confusing as a waiver of all points of order against provisions of an authorization bill except those that can only arise in the case of a general appropriation bill (e.g., clause 2 of rule XXI). Both in this area and as a general principle, we try hard not to use language that yields a misleading implication.

I appreciate your consideration and trust that this response is to be shared among all members of the committee. Our office will share it with all inquiring parties.

Sincerely,

JOHN V. SULLIVAN.

This amendment will restore the accountability and enforceability of the earmark rule. And so, accordingly, I urge my colleagues to close this loophole in the earmark rule by opposing the previous question.

Madam Speaker, I ask unanimous consent to insert the text of the amendment and extraneous materials immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. LINCOLN DIAZ-BALART of Florida. I yield back the balance of my time.

Mr. MCGOVERN. Madam Speaker, the gentleman from Florida has a flair for the dramatic and held up the omnibus appropriations bill that is before us and says he doesn’t know what is in it. Let me just highlight a few of the things that are in it that I think people need to know. In that bill there is more money than the President and the Republicans wanted for medical research and for rural health care. And I am grateful for that. And the American people are grateful for that.

In that bill, there is more money than the President and the Republicans wanted for K–12 education. All throughout this country, we hear from teachers, principals and superintendents about how No Child Left Behind is not funded. We hear about the need for more funding for special education. There is more money in this bill for K–12 education than the Republicans and the President of the United States wanted, and I am grateful for that.

There is more money than the President and Republicans wanted for renewable energy and energy efficiency. We need to get serious about dealing with global warming. We need to get serious about energy independence, but to do so requires that we fund it. For years, we have heard the Republicans talk the talk but not walk the walk. There is more money in this bill than the Republicans and the President wanted.

There is more money in this bill than the Republicans and the President

wanted for homeland security, for local law enforcement. I mean, if the Republicans had their way, they would be cutting the COPS programs. The fact of the matter is, homeland security also means homeland security, and it means making sure that our cities and our towns have the law enforcement necessary to protect the people who live there.

There is more money in this bill than the President wanted and the Republicans wanted for our crumbling infrastructure. Our roads and our bridges are falling apart all across the country. I come from Massachusetts. We have bridges that are older than some of the other States in this country. Our aging infrastructure is in deep need of repair, and it requires funding to repair that infrastructure. There is more money than the Republicans and the President wanted for our infrastructure.

There is more money than the President wanted for our veterans. In fact, there is the largest increase in veterans health benefits in the history of the Veterans Administration in this bill. My friends say, Whoa, that’s a bipartisan issue, the Republicans wanted it too. Where have you been for 12 years when you were in the majority? It has taken a Democratic majority to pass a bill that provides the largest single-year increase in veterans health benefits in the 77-year history of the VA.

There is more money here to help deal with the fact that so many of our people in our country are food insecure, are hungry. Higher food costs mean we need to help those who need help. There is more money for the supplemental nutrition program for women, infants and children, the WIC program. More money than the Republicans and the President wanted. There is more money for the commodities supplemental food program which is important to improving nutrition, more money than the President and the Republicans wanted.

Madam Speaker, let me also say, let me remind people why we are where we are at. This House did all of what was required of it to do. We passed all of our appropriations bills.

The problem is that we had to fight tooth and nail to pass them in the House here because of Republican obstructionism in the House. But Republican obstructionism in the Senate reached a new level where they actually blocked not only bringing appropriations bills to the floor, but actually moving to conference on a number of occasions. So here we are not content to do what the Republicans did last year, which is to do nothing, to kick the ball down the court, dump all their problems on another Congress and go home. We are going to finish this year’s business. And we are going to do so in a way that maybe is not everything that I would have liked to have seen done, but nonetheless represents a dramatic departure from the priorities of the previous Congress.

Madam Speaker, I urge a "yes" vote on the previous question and on the rule.

The material referred to previously by Mr. LINCOLN DIAZ-BALART of Florida is as follows:

AMENDMENT TO H. RES. 873

OFFERED BY MR. LINCOLN DIAZ-BALART OF FLORIDA

At the end of the resolution, add the following:

SEC. 2. That immediately upon the adoption of this resolution the House shall, without intervention of any point of order, consider the resolution (H. Res. 479) to amend the Rules of the House of Representatives to provide for enforcement of clause 9 of rule XXI of the Rules of the House of Representatives. The resolution shall be considered as read. The previous question shall be considered as ordered on the resolution and any amendment thereto to final adoption without intervening motion or demand for division of the question except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Rules; (2) the amendment printed in section 3, if offered by Representative Boehner of Ohio or his designee, which shall be in order without intervention of any point of order or demand for division of the question, shall be considered as read and shall be separately debatable for forty minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

SEC. 3. The amendment referred to in section 2 is as follows:

Strike all after "That" and insert the following:

(1) Clause 9(a) of rule XXI is amended by striking "or" at the end of subparagraph (3), striking the period at the end of subparagraph (4) and inserting "; or", and adding the following at the end:

"(5) a Senate bill held at the desk, an amendment between the Houses, or an amendment considered as adopted pursuant to an order of the House, unless the Majority Leader or his designee has caused a list of congressional earmarks, limited tax benefits, and limited tariff benefits in the bill and amendments (and the name of any Member, Delegate, or Resident Commissioner who submitted the request for each respective item in such list) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits to be printed in the Congressional Record prior to its consideration."

(2) Clause 9(c) of rule XXI is amended to read as follows:

"(c) As disposition of a point of order under paragraph (a), the Chair shall put the question of consideration with respect to the proposition. The question of consideration shall be debatable for 10 minutes by the Member initiation the point of order and for 10 minutes by an opponent, but shall otherwise be decided without intervening motion except one that the House adjourn."

(The information contained herein was provided by Democratic Minority on multiple occasions throughout the 109th Congress.)

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote; the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Democratic majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It

is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308-311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Democratic majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the definition of the previous question used in the Floor Procedures Manual published by the Rules Committee in the 109th Congress, (page 56). Here's how the Rules Committee described the rule using information from Congressional Quarterly's "American Congressional Dictionary": "If the previous question is defeated, control of debate shifts to the leading opposition member (usually the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business."

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Democratic majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. McGOVERN. I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

#### REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. McGOVERN, from the Committee on Rules, submitted a privileged report (Rept. No. 110-495) on the resolution (H. Res. 876) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE AMENDMENT TO H.R. 6, ENERGY INDEPENDENCE AND SECURITY ACT OF 2007

Mr. McGOVERN, from the Committee on Rules, submitted a privileged report (Rept. No. 110-496) on the resolution (H. Res. 877) providing for consideration of the Senate amendment to the House amendment to the Senate amendment to the bill (H.R. 6) to move the United States toward greater energy independence and security, to increase the production of clean renewable fuels, to protect consumers, to increase the efficiency of products, buildings, and vehicles, to promote research on and deploy greenhouse gas capture and storage options, and to improve the energy performance of the Federal Government, and for other purposes, which was referred to the House Calendar and ordered to be printed.

#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 2764, THE DEPARTMENT OF STATE, FOREIGN OPERATIONS AND RELATED PROGRAMS APPROPRIATIONS ACT, 2008 (CONSOLIDATED APPROPRIATIONS ACT, 2008)

Mr. McGOVERN, from the Committee on Rules, submitted a privileged report (Rept. No. 110-497) on the resolution (H. Res. 878) providing for consideration of the Senate amendment to the bill (H.R. 2764) making appropriations for the Department of State, foreign operations, and related programs for the fiscal year ending September 30, 2008, and for other purposes, which was referred to the House Calendar and ordered to be printed.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order: